

Docket No. TR-140382 and TR 140383

**BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S
RESPONSES**

September 25, 2014

Page 1

RECEIVED

SEP 29 2014

MONTGOMERY SCARP, PLLC

Each data response must state the name of the person who prepared the response, and the name of any witness who is knowledgeable about and can respond to questions concerning the response.

DEFINITIONS

IDENTIFY: The term “identify” (or “identity”), when used with reference to an individual person means to state his/her full name, present home address, present business address, present home telephone number, and present business telephone number; his/her present or last known position and business affiliation; and his/her position and business affiliation at the time in question. The term “identify” (or “identity”), when used with reference to a partnership, joint venture, trust, corporation or other entity, means to state the full legal name of such entity; each and every trademark, trade name or other name under which such entity does business; the entity’s street address, mailing address and telephone number; and the identity of the chief operation officer, manager, trustee or other principal representative. The term “identify” (or “identity”), when used with reference to documents, means to state specifically (a) the type of document involved (e.g., whether interoffice memorandum, etc.), together with information sufficient to enable defendants to identify the document, such as its date, the name of any addressee, the name of any signor, the title or heading of the document and its approximate number of pages; and (b) the identity of the person last known to have possession of the document, together with the present or last known location of the document.

DOCUMENT: The term “document” means any written, electronic, recorded or other graphic matter, however produced or reproduced. It includes all matter that relates or refers in whole or in part to the subjects referred to in a data request. If a document has been prepared in several copies, or if additional copies have been made, and the copies are not identical or have undergone alteration, each non-identical copy is a separate “document.” This definition includes, but is not limited to, the following: any paper, writing, chart, memo, note, letter, interoffice memo, intra-office memo, report, study, statement, map, log entry, drawing, photograph, sketch, picture, tape recording, electronic document, or record of any type or description, and any other verbal or pictorial representation of any event or idea which has transpired, whether meant for communication to others or for personal need.

BARNHART ROAD CROSSING is USDOT Crossing Number 104526P, Milepost 62.40, which is the subject of BNSF’s petition TR-140383.

NORTH STEVENS ROAD CROSSING is USDOT Crossing Number 104516J, Railroad Milepost 68.40, which is the subject of BNSF’s petition TR-140382.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S
RESPONSES

September 25, 2014

Page 2

CROSSING Collectively, the Barnhart Road Crossing and the North Stevens Road Crossing are referred to as the "crossing" or "crossings."

PETITIONS BNSF's petitions in TR-140383 and TR-140382 are referred to collectively as BNSF's "petitions."

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 3

BNSF DATA REQUEST NO. 1:

The County previously petitioned to close the crossings. Please produce all documents pertaining to, supporting, analyzing, criticizing, or otherwise related to the County's petitions, including graphs, charts, maps, photographs, reports, schematics, notes, objections, e-mails, letters, or other correspondence.

ANSWER TO DATA REQUEST NO. 1: See attached Yakima County Petition to UTC, February 25, 2013 Letter from Yakama Nation Tribal Council to David Danner of UTC objecting to proposed closures, and photographs of UTC's posting regarding proposed closures.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham, Executive Secretary Athena Sanchez Yallup, and various Yakama Nation staff

BNSF DATA REQUEST NO. 2:

Please produce copies of any traffic studies, reports, and analyses performed by or on behalf of Yakama Nation or otherwise in the possession of the Yakama Nation relating to the County's previous petitions to close the crossings.

ANSWER TO DATA REQUEST NO. 2: None.

Date prepared: Sept. 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 3:

Please produce all charts, maps, diagrams, schematics, sketches, drawings, videos or photographs showing or depicting the crossings.

ANSWER TO DATA REQUEST NO. 3: Objection. Data Request No. 3 is overly broad and unduly burdensome because its scope encompasses nearly every map in the Yakama Nation's possession. Without waiving this objection, the Yakama Nation offers the attached maps and depictions of the railroad crossings at issue.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 4

BNSF DATA REQUEST NO. 4:

Please provide existing traffic data, if any, related to the crossings, including but not limited to daily and peak hour volumes and types of vehicles, crash history, roadway users, roadway classification [degree of importance, principal, minor, local access], any speed data [of crossing traffic over crossing and adjacent highway and other road(s)].

ANSWER TO DATA REQUEST NO. 4: None.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

BNSF DATA REQUEST NO. 5:

Please provide any record of oral or written complaints of accidents or incidents occurring at the crossings.

ANSWER TO DATA REQUEST NO. 5: Objection. Data Request No. 5 is overly broad and unduly burdensome because it does not provide any limitation on the temporal scope of the request.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

BNSF DATA REQUEST NO. 6:

Please produce all documents relating to ownership of or right to use the properties adjacent to the crossings, including but not limited to any lease agreements, usage agreements, license agreements, easements, or other type of agreement related to the use of the adjacent properties.

ANSWER TO DATA REQUEST NO. 6: Objection. Data Request No. 6 is vague regarding the term "adjacent properties", and is therefore overly broad and unduly burdensome.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

BNSF DATA REQUEST NO. 7:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 5

Please identify and provide the locations of Yakama Nation's emergency services (e.g. police, fire, medical aid) that use the crossings. For such police, fire, medical aid, or other emergency services using the crossing, please provide a (most recent) five year history of calls requiring such emergency services to use the crossing, including location of the caller and responder. For those emergency services that used the railway crossing during the past five years, provide all documents and information showing the number of times that emergency services have used the crossing.

ANSWER TO DATA REQUEST NO. 7: Objection. The request for a five-year history of all calls requiring emergency services that used the crossing is overly broad and unduly burdensome. Without waiving this objection, the Yakama Nation offers that Yakama Nation Tribal Police use the crossings identified, and are located at 401 Fort Road, Toppenish, WA 98948.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Police Chief James Shike and various Yakama Nation Staff

BNSF DATA REQUEST NO. 8:

For the two public railroad crossings adjacent to the Barnhart Road Crossing (the one to the northwest) at Indian Church Road and (the one to the southeast) at N. Satus Road/Satus Longhouse Road, please identify and provide the locations of Yakama Nation emergency services, police, fire, and medical aid that use those two adjacent crossings. For such police, fire, medical aid, or other emergency services using the crossings, please provide a (most recent) five year history of calls requiring such emergency services to use each railway crossing, including location of the caller and responder. For these emergency services that used each crossing, provide documents and/or information showing the number of times the emergency services have used each crossing.

ANSWER TO DATA REQUEST NO. 8: Objection. The request for a five year history of all calls requiring emergency services that used the crossing is overly broad and unduly burdensome. Without waiving this objection, the Yakama Nation offers that Yakama Nation Tribal Police use the crossings identified, and are located at 401 Fort Road, Toppenish, WA 98948.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Police Chief James Shike and various Yakama Nation Staff

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 6

BNSF DATA REQUEST NO. 9:

For the two public railroad crossings adjacent to the N. Stevens Crossing (the one to the northwest) at N. Meyers Road and (the one to the southeast) at S. Track Road, please identify and provide the locations of Yakama Nation emergency services, police, fire, medic that use those two adjacent crossings. For such police, fire, medical aid, or other emergency services using the crossings, please provide a five year history of calls requiring such emergency services to use each crossing, including location of the caller. For these emergency services that used each railway crossing, provide documents and/or information showing the number of times the emergency services have used each crossing.

ANSWER TO DATA REQUEST NO. 9: Objection. The request for a five year history of all calls requiring emergency services that used the crossing is overly broad and unduly burdensome. Without waiving this objection, the Yakama Nation offers that Yakama Nation Tribal Police use the crossings identified, and are located at 401 Fort Road, Toppenish, WA 98948.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Police Chief James Shike and various Yakama Nation Staff

BNSF DATA REQUEST NO. 10

Identify any school district bus routes that use the railway crossings.

ANSWER TO DATA REQUEST NO. 10: The Yakama Nation Tribal School has historically used the Barnhart Road railroad crossing to pick up school children, and may use the crossing for that purpose in the future. At this time, the Yakama Nation is unaware of any current school bus routes that use the crossings, but reserves the right to supplement this response to the extent further information is made available.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation employees

BNSF DATA REQUEST NO. 11:

Identify any school district bus routes that use the two crossings adjacent to each crossing. Please identify the location and name of the schools served by the respective buses.

ANSWER TO DATA REQUEST NO. 11: See answer to Data Request 10. The Yakama Nation Tribal School is located at 601 Linden Street, Toppenish, WA 98948.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 7

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation employees

BNSF DATA REQUEST NO. 12:

Do you disagree with any facts alleged in either of the petitions filed by BNSF? If so, please state each fact with which you disagree, and reasons why you disagree with it.

ANSWER TO DATA REQUEST NO. 12: Without waiving any right to challenge BNSF's past, current, or future assertions of fact and law, the Yakama Nation disagrees with the contention that 0 school buses use the Barnhart Road railroad crossing each day. Historically, school vehicles have utilized the crossing, and may use the crossing in the future.

The Yakama Nation disagrees with BNSF's description regarding how the railroad crossings are used, which also includes access for homes in the immediate vicinity of the crossings, access for emergency services, access for funerary processions (Barnhart Road only), and which may include other functions.

The Yakama Nation disagrees with BNSF's contention that closing the crossings is in the public's safety interest.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

BNSF DATA REQUEST NO. 13:

Please identify all witnesses (expert and lay) you intend to call at the hearing.

ANSWER TO DATA REQUEST NO. 13: At this time, the Yakama Nation anticipates that it may call witnesses from the Yakama Nation Engineering Department, Yakama Nation Land Enterprise, and tribal members who reside in the area of the crossings. Discovery is only beginning and the Yakama Nation does not yet know the identities of these witnesses.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 8

BNSF DATA REQUEST NO. 14:

Please state the substance of witnesses' testimony (expert and lay) you intend to present in this matter.

ANSWER TO DATA REQUEST NO. 14: At this time, the Yakama Nation anticipates that it may call witnesses from the Yakama Nation Engineering Department, Yakama Nation Land Enterprise, and tribal members who reside in the area of the crossings. Discovery is only beginning and the Yakama Nation does not yet know the identities of these witnesses.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

BNSF DATA REQUEST NO. 15:

Provide a map or other equivalent visual depiction showing ownership of land adjacent to the BNSF right of way from the W. Satus Road/Satus Longhouse Road crossing to the Indian Church crossing (i.e., the area between the two public crossings adjacent to the Barnhart crossing).

ANSWER TO DATA REQUEST NO. 15: See attached documents detailing the allotment numbers for the parcels in and around the N. Stevens Road and Barnhart Road railroad crossings.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 16:

Provide a map or other equivalent visual depiction showing ownership of land adjacent to the BNSF right of way from the N. Meyers crossing to the S. Track crossing (i.e., the area between the two public crossings adjacent to the N. Stevens Road crossing).

ANSWER TO DATA REQUEST NO. 16: See attached documents detailing the allotment numbers for the parcels in and around the N. Stevens Road and Barnhart Road railroad crossings.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 9

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 17:

Please describe with specificity and detail the relationship between the Yakama Nation and the Yakama Nation Land Enterprise.

ANSWER TO DATA REQUEST NO. 17: The Yakama Nation Land Enterprise is an arm of the Yakama Nation Tribal Government, charged with acquiring key tracts of land and those tracts held in complicated ownership status, and improving and developing land already owned by the Yakama Nation to maximize benefits to the Tribe.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff & Land Enterprise Employees

BNSF DATA REQUEST NO. 18:

In a letter to Kathy Hunter of the WUTC dated February 15, 2013, the Yakama Nation Land Enterprise objecting to the closure of the Barnhart crossing wrote, "[t]his crossing . . . is used extensively by Tribal members." Please provide the names of the Tribal members who for the five years prior to the letter, and to the date of these data requests, used this crossing "extensively," and for each provide the dates of their trips over the crossing, and the addresses of the starting and ending points of the trips.

ANSWER TO DATA REQUEST NO. 18: Objection. The request in its entirety is overly broad and unduly burdensome.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response:

BNSF DATA REQUEST NO. 19:

Please provide all documents in the possession of the Yakama Nation Land Enterprise as of February 15, 2013, that supported the statement that "[t]his crossing . . . is used extensively by Tribal members."

ANSWER TO DATA REQUEST NO. 19: None.

Date prepared: September 25, 2014

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 10

Preparers: Attorneys & Yakama Nation Staff
Witness with knowledge about this response:

BNSF DATA REQUEST NO. 20:

In a letter to Kathy Hunter of the WUTC dated February 15, 2013, the Yakama Nation Land Enterprise objecting to the closure of the Barnhart crossing wrote, "[t]here are seven homes located within a quarter mile of the railroad crossing." Please identify the owners and permanent residents of each of the homes.

ANSWER TO DATA REQUEST NO. 20: The Yakama Nation has insufficient knowledge to address this data request. To the extent responsive information is identified, the Yakama Nation will supplement this request accordingly.

Date prepared: September 25, 2014
Preparers: Attorneys & Yakama Nation Staff
Witness with knowledge about this response:

BNSF DATA REQUEST NO. 21:

In a letter to Kathy Hunter of the WUTC dated February 15, 2013, the Yakama Nation Land Enterprise objecting to the closure of the Barnhart crossing wrote, "[l]ocal farmers have utilized the railroad crossing over the years and continue to need to utilize it to move their farm machinery from field to field during their annual crop seasons." Identify the local farmers who have over the years needed to utilize the crossing to move their farm machinery from field to field during their annual crops season, what farm implements the farmers moved, the dates and times of day the implements were moved, and the point of origin and destination of each such implement that was moved across each crossing.

ANSWER TO DATA REQUEST NO. 21: Objection. The request in its entirety is overly broad and unduly burdensome.

Date prepared: September 25, 2014
Preparers: Attorneys & Yakama Nation Staff
Witness with knowledge about this response:

BNSF DATA REQUEST NO. 22:

Please provide all documents in possession of the Yakama Nation Land Enterprise as of February 15, 2013, that supported the statement that "[l]ocal farmers have utilized the railroad crossing over the years and continue to need to utilize it to move their farm machinery from field to field during their annual crop seasons."

Docket No. TR-140382 and TR 140383

**BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S
RESPONSES**

September 25, 2014

Page 11

ANSWER TO DATA REQUEST NO. 22: See the attached maps depicting the Barnhart Road railroad crossing as an access point to numerous tribal and individual member trust allotments.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 23:

In a letter to Kathy Hunter of the WUTC dated February 15, 2013, the Yakama Nation Land Enterprise objecting to the closure of the Barnhart crossing wrote, "the Satus Longhouse is located on Barnhart Road and Yakama Tribal members who attend religious ceremonies, feast ceremonies, funeral ceremonies, and other cultural events would be greatly affected by the crossing closure." Please identify the Yakama Tribal members who would be "greatly affected" and describe with specificity and detail how they would be affected.

ANSWER TO DATA REQUEST NO. 23: Objection. The request to identify the Yakama Tribal Members who would be "greatly affected" is overly broad and unduly burdensome. Without waiving this object, the Yakama Nation offers that each and every Yakama Tribal Member would be negatively impacted by closing the Barnhart Road railroad crossing access to Satus Longhouse because it would cut off a northern access route to the Satus Longhouse via Barnhart Road and Drainbank Road.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

BNSF DATA REQUEST NO. 24:

Please provide all documents in possession of the Yakama Nation Land Enterprise as of February 15, 2013, that supported the statement that "the Satus Longhouse is located on Barnhart Road and Yakama Tribal members who attend religious ceremonies, feast ceremonies, funeral ceremonies, and other cultural events would be greatly affected by the crossing closure."

ANSWER TO DATA REQUEST NO. 24: The Satus Longhouse is located at the intersection of Drainbank Road and Satus Longhouse Road, and is not located on Barnhart Road. In regard to documents establishing that Yakama Tribal Members would be greatly affected by the crossing closure, please see the attached maps detailing the impact of closing the crossing on access to the Satus Longhouse.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 12

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 25:

In the letter to Kathy Hunter of the WUTC dated February 15, 2013, the Yakama Nation Land Enterprise objecting to the closure of the Barnhart crossing went on to say, “[t]hese cultural ceremonies are an important part of the Yakama Tribal customs and the proposed closure would cut off access to the Satus Longhouse.” Please identify every Yakama Tribal member for whom access to the Satus Longhouse would be “cut off” and explain in detail how it would be “cut off.”

ANSWER TO DATA REQUEST NO. 25: Objection. The request to name “every Yakama Tribal member” is overly broad and unduly burdensome. Without waiving this object, the Yakama Nation offers that each and every Yakama Tribal Member would be negatively impacted by closing the Barnhart Road railroad crossing access to Satus Longhouse because it would cut off a northern access route to the Satus Longhouse via Barnhart Road and Drainbank Road.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 26:

Please provide all documents in possession of the Yakama Nation Land Enterprise as of February 15, 2013 that support the statement that “the proposed closure [of the Barnhart Road crossing] would cut off access to the Satus Longhouse.”

ANSWER TO DATA REQUEST NO. 26: None.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

BNSF DATA REQUEST NO. 27:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 13

In a letter from the Yakama Nation to David Danner of the WUTC dated February 25, 2013, the Yakama Nation wrote, “[t]hese actions [closing the Barnhart and N. Stevens Road crossings] can result in substantial impacts to the social welfare of tribal members living in the area and ceremonial activities at the Satus Longhouse.” Please describe in detail how closing the crossings can result in substantial impacts to the social welfare of tribal members living in the area and ceremonial activities at the Satus Longhouse.

ANSWER TO DATA REQUEST NO. 27: The Yakama Nation and its Members have existed and lived in the area encompassing the N. Stevens Road and Barnhart Road railroad crossings since time immemorial. Yakamas’ lands and traditions tie them directly to their history and ancestors, which is a relationship that serves as the foundation of Yakama Culture today. Yakama Longhouses serve as traditional centers for cultural and religious practices, including funerals. The Satus Longhouse is one such Yakama Longhouse. Closing the Barnhart Road railroad crossing would negatively impact a traditional funerary route recognized by Yakamas for generations, which would negatively impact Yakama culture, and in turn, Yakamas’ social welfare.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff & Satus Longhouse Members

BNSF DATA REQUEST NO. 28:

Please provide all documents in possession of the Yakama Nation as of February 25, 2013, that support the statement that closing the crossings “can result in substantial impacts to the social welfare of tribal members living in the area and ceremonial activities at the Satus Longhouse.”

ANSWER TO DATA REQUEST NO. 28: None.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Yakama Nation Staff & Satus Longhouse Members

BNSF DATA REQUEST NO. 29:

In a letter from the Yakama Nation to David Danner of the WUTC dated February 25, 2013, the Yakama Nation wrote, “[e]mergency response to tribal homes in the area could be significantly impacted.” Please provide all documents in possession of the Yakama Nation as of February 25, 2013 that support or relate to that statement.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 14

ANSWER TO DATA REQUEST NO. 29: See the attached PowerPoint presentation detailing the increased distances that emergency responders would have to incur to reach lands and homes currently served by the Barnhart Road and N. Stevens Road railroad crossings.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 30:

In a letter from the Yakama Nation to David Danner of WUTC dated March 24, 2014, objecting to closure of the crossings, the Yakama Nation wrote, “[e]mergency response time to tribal homes in the area would be increased and could account for significant loss of property or life.” Please provide all documents in the possession of the Yakama Nation that support or relate in any way to that statement.

ANSWER TO DATA REQUEST NO. 30: See response to Data Request No. 29.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Al Pinkham and various Yakama Nation Staff

BNSF DATA REQUEST NO. 31:

In its “Motion for Leave to File an Amicus Curiae Brief” dated May 30, 2014, the Yakama Nation represented to the WUTC that the “Barnhart Road railroad crossing is situated along a traditional Yakama Nation ceremonial and funerary procession route, which is still used to this day.” Please describe in detail the location of the “traditional Yakama Nation ceremonial and funerary procession route,” the dates of its use in the last five years for that purpose, and identify any and all individuals using it for that purpose.

ANSWER TO DATA REQUEST NO. 31: Objection. This discovery request is so broad in its terms that it comprises an unwarranted annoyance, embarrassment, and is oppressive. Without waiving this objection, the Yakama Nation offers that Yakama Nation Tribal Police often serve as police escorts during funerals leaving from the Satus Longhouse and utilizing the Barnhart Road railroad crossing. While the funeral routes may vary slightly in terms of route, distance, and length based on the family’s wishes, the routes generally utilize the Barnhart Road railroad crossing. To the extent further information becomes available, the Yakama Nation will supplement its response to this Data Request.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Police Chief James Shike and various Yakama Nation Staff

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S RESPONSES

September 25, 2014

Page 15

BNSF DATA REQUEST NO. 32:

How many current members does the Yakama Nation have?

ANSWER TO DATA REQUEST NO. 32: 10,668 enrolled members.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

BNSF DATA REQUEST NO. 33:

In its "Motion for Leave to File an Amicus Curiae Brief" dated May 30, 2014, the Yakama Nation represented to the WUTC that the "the Yakama Nation is concerned that BNSF is attempting to close railroad crossings to speed up its trains, and increase train traffic through the Yakama Reservation." Please provide all information upon which the Yakama Nation relied in making that representation to the WUTC, and provide all documents supporting that representation.

ANSWER TO DATA REQUEST NO. 33: The Yakama Nation's concern is based on BNSF's recent increase in coal export activities in the State of Washington. With regard to documents, none.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

BNSF DATA REQUEST NO. 34:

In its "Motion for Leave to File an Amicus Curiae Brief" dated May 30, 2014, the Yakama Nation represented to the WUTC that "closing these crossings will injure the economic well-being of Yakama Members and the Yakama nation by limiting tribal farmers' and leaseholders immediate access to their agricultural lands." Please provide (1) all facts upon which the Yakama Nation relied in making that statement, and (2) all documents supporting the statement. Please identify all tribal farmers who will be denied immediate access to their agricultural lands.

ANSWER TO DATA REQUEST NO. 34: The Yakama Nation and its Tribal Members own various trust allotments in and around the Barnhart Road railroad crossing, including, but not limited to, allotments 326, 348, 349, 352, 353, 354, 364, 365, 366, 367, 368, 369, 370, 379, 787, 789.5, 1709, 1710, 2863, T-380, T-789.5, and T-1711. Further, Yakama Tribal Members own various trust allotments in and around the N. Stevens Road railroad crossing, including, but not limited to, allotments 722, 723, and 724. Upon information and belief, a majority of these lands are leased for agricultural purposes; with

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakama Nation AND YAKAMA NATION'S
RESPONSES

September 25, 2014

Page 16

Yakama Members receiving the monetary value of those lease interests in their respective trust accounts. Accessibility plays a factor in the valuation of leasehold interests. Therefore, closing the N. Stevens Road and Barnhart Road railroad crossings may inhibit leaseholders' access to their leased agricultural lands, decreasing the value of those leasehold interests, and thereby negatively impacting the economic interests of Yakama Tribal Members in those allotments. Please see the attached allotment maps supporting these contentions.

Date prepared: September 25, 2014

Preparers: Attorneys & Yakama Nation Staff

Witness with knowledge about this response: Various Yakama Nation Staff

Yakama Nation Office of Legal Counsel




Ethan Jones, WSBA # 46911

Yakama Nation Office of Legal Counsel

Certificate of Service

I hereby certify that I have this day served this document upon all parties of record in this proceeding, via Electronic Mail and U.S. Mail.

Dated this 26th day of September, 2014.



Kayonnie Badonie, Legal Assistant